

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, ) 8:10CV276

**Plaintiff,**

4

**ANSWER TO VERIFIED COMPLAINT  
FOR FORFEITURE AND DEMAND  
FOR JURY TRIAL**

\$39,000.00 in UNITED STATES	)
CURRENCY and a	)
2005 TOYOTA SIENNA,	)
VIN 5TDZA23C65S337119,	)
	)

**Defendants.** )

**COMES NOW** the Claimant, Richard O. Mathie, by and through his attorney, James H.

Hoppe, and hereby submits the following answer to the government's Verified Complaint for Forfeiture and informs the Court with regard to said complaint that:

1. Claimant does not dispute the legal assertions in Paragraph 1 and admits the allegations of jurisdiction;
2. Claimant admits Paragraph 2;
3. Claimant admits Paragraphs 3, 4, and 5;
4. Claimant denies all of Paragraphs 6 and 7;

For his affirmative defenses, the Claimant alleges.

1. The seized property described in the Government's Verified Complaint for Forfeiture was obtained in violation of the Claimant's constitutional rights against unreasonable searches and seizures as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution;

2. The seized property described in the government's Verified Complaint for Forfeiture was obtained in violation of Claimant's constitutional right to due process as guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution;
3. The seized property in the Government's Verified Complaint for Forfeiture was obtained in violation of the Claimant's constitutional right to effective assistance of counsel as guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution;
4. The seized property described in the Government's Verified Complaint for Forfeiture constitutes derivative evidence of an illegal search and seizure;
5. The seized property described in Government's Verified Complaint for Forfeiture constitutes derivative evidence of statements obtained illegally from Claimant by law enforcement officers;
6. The seized property described in the Government's Verified Complaint for Forfeiture constitutes derivative evidence of a violation of Claimant's guaranteed right to the effective assistance of counsel;
7. The seized property described in Government's Verified Complaint for Forfeiture, having been obtained in violation of Claimant's constitutional rights, is not admissible at a civil forfeiture trial;
8. The seized property described in Government's Verified Complaint for Forfeiture is not contraband, is not evidence of a crime, and was in lawful possession of the Claimant at the time it was seized;

9. The seized property described in Government's Verified Complaint for Forfeiture was not used, nor was it intended to be used, to commit or facilitate the commission of violations of Title 21, United States Code, §§ 841 and 844 and thus, is not subject to forfeiture to the United States pursuant to Title 21, United States Code, § 881(a)(6) and the Claimant possesses a lawful property right in the seized property;

10. The seized property described in Government's Verified Complaint for Forfeiture is protected from forfeiture by reason of any act or omission committed or omitted without the knowledge or consent of the Claimant.

**WHEREFORE**, the Claimant being lawfully entitled to the return of the seized property, hereby demands its restitution and claims the right to defend this action. The Claimant prays that the Court enter judgment in favor of the Claimant, dismissing the Government's Complaint and ordering the return of the seized property to Claimant's possession; that the costs of this action be assessed against the Plaintiff; that the Claimant be awarded a reasonable attorneys' fee; and that the Court grant other and further relief as this Court may deem just and equitable.

#### **DEMAND FOR JURY TRIAL**

The Claimant hereby demands a trial to a jury of twelve jurors on the issues to be tried in this case.

Respectfully submitted,  
Richard O. Mathie, Claimant

By: /s/ James H. Hoppe  
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